

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

**JAMETRIUS MCCON, DARYL D. WILLIAMS,
LARRY HENDERSON and LAMARIO HENDERSON**

PLAINTIFFS

VERSUS

CASE 1:17cv77-LG-RHW

ADOLFO PEREZ and D&D EXPRESS TRANSPORT CORP

DEFENDANTS

-AND-

D&D EXPRESS TRANSPORT CORP

COUNTER-PLAINTIFF

VERSUS

DARYL D. WILLIAMS

COUNTER-DEFENDANT

**DEFENDANTS' RESPONSE TO PLAINTIFFS' REQUEST FOR EXTENSION OF THE
DEADLINE TO DISCLOSE EXPERT WITNESSES [132]**

COME NOW the Defendants, D&D Express Transport Corp and Adolfo Perez, who respond to Plaintiffs' Request for Extension of the Deadline to Disclose Expert Witnesses [132] as follows:

1. Paragraph 1 states "Plaintiffs have been diligently conducting discovery..." See [132], ¶ 1. Defendants cannot determine *who* is requesting an extension of time. McCon, who filed the Motion, is represented by one attorney (Rowen) and the remaining three Plaintiffs are represented by a different attorney (Williams). While McCon has requested depositions and conducted discovery in this matter, none of the other Plaintiffs have requested or participated in depositions to date. Furthermore, when McCon's attorney requested an extension via email, there was no mention of an extension on behalf of *all* Plaintiffs. See **Exhibit A**, email string. Also, the Motion [132] was filed and docketed by McCon, and the other Plaintiffs did not join therein. See **Exhibit B**, ECF Notification. Additionally, only McCon has disclosed the retention of Gary

Johnson and Paul Dillard as experts. See **Exhibit C**, Excerpt from McCon's Second Supplemental Responses to D&D Express' Interrogatories (unverified). Finally, in interrogatories, Perez inquired from each Plaintiff whether there are any agreements to cooperate, which would include any joint-prosecution agreement, and each stated there were *none*. See **Exhibit D**, collective exhibit of each Plaintiff's response to Interrogatory No. 8(f). Therefore, Daryl Williams, Lamario Henderson and Larry Henderson have not requested any extension of time, and any request at this point should be denied.

2. Paragraph 2 states that the "Plaintiffs" have retained... See [132], ¶2. First, only McCon has disclosed the retention of Johnson and Dillard. See **Exhibit C**. Second, the two depositions at issue – Carlos Laguna and Trooper LaCap – do not have any bearing on the "non-retained" actor-experts, and therefore, nothing prevented any Plaintiff from properly designating medical experts by yesterday's deadline. As such, all such medical experts should be excluded.

3. Defendants have not hindered the taking of the subject depositions. Nevertheless, McCon has not shown the depositions of Carlos Laguna and Trooper LaCap are necessary for Gary Johnson and Paul Dillard to render their opinions, and they certainly did not show any basis for these depositions being necessary for non-retained actor-experts.

4. In Paragraph 4, McCon requests a 23-day extension of time to disclose experts in order to depose Carlos Laguna and Trooper LaCap. See [132], ¶4. The Motion [132] is silent regarding any basis for an extension of time with respect to the non-retained expert opinions, and therefore, no extension of time should be granted and any such experts should be excluded for failure to designate.

5. McCon communicated his request to Defendants; however, the request was made after counsel left the office and the Motion [132] was then filed 23 minutes later. See **Exhibit A**,

Email string Counsel then had to communicate the request to Defendants, with whom could not be done before today.

WHEREFORE, PREMISES CONSIDERED, Defendants, D&D Express Transport Corp and Adolfo Perez, Defendants request the Motion [132] be denied in its entirety. In the alternative, Defendants request the Motion [132] be denied with respect to the non-retained actor-experts who have no dependence on the depositions of Carlos Laguna and Trooper LaCap. In the further alternative, Defendants request the Motion [132] be denied as to Daryl Williams, Lamario Henderson and Larry Henderson since they are not parties of the Motion [132], filed no Motion of their own and did not join in the Motion [132]. Finally, in the event the Court grants any extension of time, Defendants request an extension in kind as to the number of days.

Respectfully submitted, this 16th day of November, 2017.

D&D EXPRESS TRANSPORT CORP and
ADOLFO PEREZ

By: /s/ Kathryn Platt
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CERTIFICATE OF SERVICE

I, Kathryn Breard Platt, one of the attorneys for Defendant, D&D Express Transport Corp, do hereby certify that I have this date served the above and foregoing *Response* upon all counsel of record and interested persons via the Court's MEC filing system.

So certified, this 16th day of November, 2017.

/s/ Kathryn Platt

KATHRYN BREARD PLATT (#102141)